

### **Inquiry into illicit tobacco.**

I wish to make the following submission to the Joint Committee on Law Enforcement into illicit tobacco, on behalf of the Rural City of Wangaratta and based on a recent case in Wangaratta.

As an Authorised Tobacco Act Inspector under the Tobacco Act 1987, (The Act), I first received a complaint regarding the selling of illegally imported cigarettes from a gift shop in the main street of Wangaratta, in November 2013.

Over the following 8 months, I gathered sufficient evidence to substantiate that illegal tobacco products were indeed being sold from the gift shop. The amount of time taken for these investigations was at the expense of other statutory duties required to be completed by a small team of two.

This required a substantial amount of my time to gather this evidence, in order to gain approval from Council's Chief Executive Officer (CEO) to then apply to a Magistrate, to obtain a search warrant for the gift shop.

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At this point in time I contacted Customs and Excise by telephone regarding my findings of the selling of illicit tobacco products, but unfortunately their response was that Local Government can handle the problem as it is too small a problem for them to become involved.

Initial information indicated that the gift shop was being conducted by a low level Lebanese crime gang, therefore Victoria Police assistance was requested through the local Police Inspector as a potential threat existed to my personal safety, if I conducted the execution of the warrant on my own.

The warrant was executed on 16 October 2014, with the assistance of another Council Environmental Health Officer (EHO) along with 3 Council Enforcement Officers and 4 Victoria Police Officers at approximately 10.12 am and required approximately 3 hours of everyone's time to complete.

Despite previous visits to the shop where I had conversed with them in English, the two males present suddenly claimed to not understand English, which subsequently required the use of a telephone interpreter service. This potential situation was previously discussed with the Victoria Police Officers who were part of the search party and an interpreter service via telephone was pre-arranged should the need arise, which it did.

During the execution of the Search Warrant, approximately 15.75 kilograms of “chop chop” was found on the premises along with 46,500 illegally imported cigarettes, all of which were seized.

(At 10 am the very next day when the gift shop opened, following the seizure of the tobacco products, it was once again fully stocked with illegally imported cigarettes.)

Since the execution of the warrant and subsequent prosecution, Council is still receiving complaints regarding the sale of illicit tobacco products from this establishment as to why they cannot act.

A representative sample of each of these products was then subsequently securely couriered to Southern Cross Plant Science, Southern Cross University, Lismore, New South Wales for testing and confirmation that the products were in fact Tobacco Products as defined by The Act.

This was found to be the case.

Proceedings were then commenced against the seller of the Tobacco Products and delayed a number of times, finally resulting in a Court Appearance on 10 April 2015, in the Melbourne Magistrates Court.

This prosecution was successful and the defendant was fined \$7,500 with legal costs of \$7,200 and was allowed 18 months to pay the fines and costs.

Councils out of pocket costs and expenses were just over \$19,000, not including any of the respective Council Officers time etc.

Anecdotally, I have been made aware of the same seller, selling both “chop chop” and illegally imported cigarettes at a weekly market in Yarrawonga along with sales occurring from another shop in Benalla. I have also been advised

that the seller rents a storage shed somewhere in Wangaratta, from which he re stocks his gift shop of the illegally imported cigarettes.

It would appear that the defendant knows the legislation very well, including the long drawn out process required to conduct a Search Warrant and the costs (both time and financial) applicable for a local government to prosecute.

The required processes to address this problem under The Act, makes it very difficult for Local Government to effectively control this situation.

The significant loss of revenue to the Federal Government through Customs and Excise should also be of concern.

Whilst The Act works well with legitimate Tobacco Retailers, it fails drastically in effectively dealing with people selling illegally imported tobacco products, let alone the loss of revenue to the Federal Government through Customs and Excise.

The most likely involvement of crime gangs, albeit minor gangs, is usually an early stepping stone that can eventually lead to selling other illegal substances to their existing customer base.

While this illicit tobacco problem is quite clearly a Commonwealth Government responsibility, the practicality is that Local Government is left to deal with the problem, which incorporates significant financial costs and staff resources to investigate and undertake legal action, in order to address the problem.

Despite all that Local Government can and does do, nothing stops the sellers of illicit tobacco products from restocking the very next day and continue selling until given a court order to cease selling is issued.

When this happens, another seller from the same shop or another shop can commence selling and the whole process commences once again.

Given the significant time, costs, resources and staff involved, along with the outcome achieved, I will not be recommending that Council pursue this matter any further.

Unless we can address this problem in a much more streamlined and faster process, I will not be pursuing this matter any further.

I would be happy to further elaborate on any of the contents of this submission if the Parliamentary Joint Committee wishes me to.